



[4830-01-p]

## DEPARTMENT OF THE TREASURY

Internal Revenue Service

26 CFR Part 1

[TD 9847]

RIN 1545-BO71

Qualified Business Income Deduction; Correction

AGENCY: Internal Revenue Service (IRS), Treasury.

ACTION: Correcting amendments.

SUMMARY: This document contains corrections to final regulations (TD 9847) that were published in the **Federal Register** on Friday, February 8, 2019. The final regulations are concerning the deduction for qualified business income under section 199A of the Internal Revenue Code.

DATES: This correction is effective on **[INSERT DATE OF PUBLICATION IN THE FEDERAL REGISTER]** and is applicable on or after February 8, 2019.

FOR FURTHER INFORMATION CONTACT: Vishal R. Amin or Sonia K. Kothari at (202) 317-6850 or Robert D. Alinsky, Margaret Burow, or Wendy L. Kribell at (202) 317-5279.

SUPPLEMENTARY INFORMATION:

### **Background**

The final regulations (TD 9847), published on February 8, 2019 (84 FR 2952), that are the subject of this correction are issued under section 199A of the Internal Revenue Code.

## **Need for Correction**

As published, the final regulations (TD 9847) contain errors that need to be corrected.

## **List of Subjects in 26 CFR Part 1**

Income taxes, Reporting and recordkeeping requirements.

## **Correction of Publication**

Accordingly, 26 CFR part 1 is corrected by making the following correcting amendments:

## **PART 1 - INCOME TAXES**

**Paragraph 1.** The authority citation for part 1 continues to read in part as follows:

Authority: 26 U.S.C. 7805 \* \* \*

**Par. 2.** Section 1.199A-0 is amended by revising the entry for § 1.199A-1(a)(16) and adding an entry for § 1.199A-2(b)(2)(iv) to read as follows:

### **§ 1.199A-0 Table of contents.**

\* \* \* \* \*

§ 1.199A-1 Operational rules.

(a) \* \* \*

(16) W-2 wages.

\* \* \* \* \*

§ 1.199A-2 Determination of W-2 Wages and unadjusted basis immediately after acquisition of qualified property.

\* \* \* \* \*

(b) \* \* \*

(2) \* \* \*

(iv) Methods for calculating W-2 wages.

\* \* \* \* \*

**Par. 3.** Section 1.199A-1 is amended by revising the second sentence of paragraph (b)(10) and the seventh sentence of paragraph (d)(4)(xi)(B) to read as follows:

**§ 1.199A-1 Operational rules.**

\* \* \* \* \*

(b) \* \* \*

(10) \*\*\* Other passthrough entities including common trust funds as described in §1.6032-1T and religious or apostolic organizations described in section 501(d) are also treated as RPEs if the entity files a Form 1065, U.S. Return of Partnership Income, and is owned, directly or indirectly, by at least one individual, estate, or trust. \* \* \*

\* \* \* \* \*

(d) \* \* \*

(4) \* \* \*

(xi) \* \* \*

(B) \* \* \* Thus, F has overall net QBI of \$80,000 when all trades or businesses are taken together (\$200,000) plus \$150,000 minus \$120,000 minus the carryover loss of (\$150,000). \* \* \*

\* \* \* \* \*

**Par. 4.** Section 1.199A-2 is amended by revising the fifth sentence of paragraph (b)(2)(iii)(A) to read as follows:

**§ 1.199A-2 Determination of W-2 wages and unadjusted basis immediately after acquisition of qualified property.**

\* \* \* \* \*

(b) \* \* \*

(2) \* \* \*

(iii) \* \* \*

(A) \* \* \* Section 6071(c) provides that Forms W-2 and W-3 must be filed on or before January 31 of the year following the calendar year to which such returns relate (but see the special rule in §31.6071(a)-1T(a)(3)(i) of this chapter for monthly returns filed under §31.6011(a)-5(a) of this chapter). \* \* \*

\* \* \* \* \*

**Par. 5.** Section 1.199A-4 is amended by revising the fourth sentence of paragraph (c)(3), the first sentence of paragraph (c)(4)(ii), and the third sentence of paragraph (d)(15)(ii) to read as follows:

**§ 1.199A-4 Aggregation.**

\* \* \* \* \*

(c) \* \* \*

(3) \* \* \* However, an RPE may add a newly created or newly acquired (including through non-recognition transfers) trade or business to an existing aggregated trade or business (including the aggregated trade or business of a lower-tier RPE) if the requirements of paragraph (b)(1) of this section are satisfied. \* \* \*

(4) \* \* \*

(ii) \* \* \* If an RPE fails to attach the statement required in paragraph (c)(4)(i) of this section, the Commissioner may disaggregate the RPE's trades or businesses. \* \* \*

(d) \* \* \*

(15) \* \* \*

(ii) \* \* \* If PRS2 does aggregate the two businesses, PRS1 may not aggregate its food service business with PRS2's aggregated trades or businesses. \* \* \*

\* \* \* \* \*

**Par. 6.** Section 1.199A-5 is amended by revising the sixth sentence of paragraph (b)(3)(xiv) and the eighth sentence of paragraph (d)(3)(iii)(B) to read as follows:

**§ 1.199A-5 Specified service trades or businesses and the trade or business of performing services as an employee.**

\* \* \* \* \*

(b) \* \* \*

(3) \* \* \*

(xiv) \* \* \* Several of the employees and K have worked in the bicycle business for many years, and have acquired substantial skill and reputation in the field. \* \* \*

\* \* \* \* \*

(d) \* \* \*

(3) \* \* \*

(iii) \* \* \*

(B) \* \* \* Unless the presumption is rebutted with a showing that, under Federal tax law, regulations, and principles (including common-law employee classification rules), C is not an employee, C's distributive share of Law Firm 2 income (including any guaranteed payments) will not be QBI for purposes of section 199A. \* \* \*

\* \* \* \* \*

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[FR Doc. 2019-07652 Filed: 4/16/2019 8:45 am; Publication Date: 4/17/2019]